



# Nevada State Board of Medical Examiners

## \* \* \* MINUTES \* \* \*

### OPEN SESSION TELEPHONE CONFERENCE CALL BOARD MEETING

Board Office Conference Room  
1105 Terminal Way, Suite 301, Reno, NV 89502

***THURSDAY, MAY 14, 2009 – 10:00 A.M.***

*Board Members Present at Board Office*

None

*Board Members Present by Telephone*

Renee West, Secretary-Treasurer  
Sohail U. Anjum, M.D.  
Van V. Heffner  
Beverly A. Neyland, M.D.

*Board Members Absent/Not Participating*

Charles N. Held, M.D., President  
Benjamin J. Rodriguez, M.D., Vice President  
Javaid Anwar, M.D.  
Jean Stoess, M.A.  
S. Daniel McBride, M.D.

*Staff Present at Board Office*

Louis Ling, Executive Director  
Edward O. Cousineau, J.D., General Counsel  
Laurie L. Munson, Chief of Administration and Information Systems  
Douglas C. Cooper, Chief of Investigations  
Shawna M. Rice, Compliance Officer/Investigator  
Donald A. Andreas, Investigator

*Also Present by Telephone*

Christine M. Guerci-Nyhus, Esq., Chief Deputy Attorney General  
Kathleen Janssen, Esq.

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Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS

- Roll Call/Quorum
- Renee West, Secretary-Treasurer

The meeting was called to order at 10:05 a.m.

The AT&T telephone conference call operator took roll call of those participating by telephone.

*[Due to technical difficulties with the Board's telephone system, the meeting was not recorded up to this point.]*

Agenda Item 2

CONSIDERATION OF STIPULATION FOR SETTLEMENT IN THE MATTER OF *THE NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. BENJAMIN VENGER, M.D.*,  
BME CASE NO. 08-9819-1

- Edward O. Cousineau, J.D., General Counsel

Ms. Guerri-Nyhus took roll call of the adjudicating Board Members. She then explained that counsel for Dr. Venger had requested that Dr. Anwar and Dr. McBride recuse themselves from participation in the matter due to a perceived conflict of interest. NRS 281A.420 prohibits a public officer from voting on a matter where his judgment would be affected by a commitment in a private capacity to the interests of others. Dr. Venger's counsel's request and the allegations accompanying it form the basis for recusal. Further, Dr. Venger's counsel's request and allegations give rise to an appearance that those Board Members may have such a private commitment in this matter. While neither Dr. Anwar nor Dr. McBride believes he has a conflict, in order to protect the integrity of the process and assure Dr. Venger's Constitutional rights, they have recused themselves. She stated that these recusals lower the quorum requirement to a quorum of those eligible to hear the matter, which are the four Board Members present, and therefore there was a quorum.

Ms. Janssen stated that based upon Ms. Guerri-Nyhus' representation that there was a quorum, Dr. Venger agreed to proceed, but in the event there was some determination that there wasn't a quorum, they were reserving all legal rights related to that analysis.

Mr. Cousineau entered his appearance on behalf of the Investigative Committee of the Board.

Ms. Janssen entered her appearance on behalf of Dr. Venger.

Mr. Cousineau explained that a proposed settlement was submitted to the Board for approval at the regularly-scheduled Board meeting in February 2009. At that time there was significant discussion as to the propriety of the settlement agreement. His interpretation, as well as that of Dr. Venger's counsel, was the only issue that prevented adoption of the settlement agreement at that time was the number of hours of community service to be accomplished by Dr. Venger. Therefore, he and Dr. Venger's counsel agreed that it would be appropriate to incorporate 500 additional hours to the previous number of community service hours, bringing the total to 805. All other terms included in the settlement agreement submitted to the Board in February remained the same in the new settlement proposal. Mr. Cousineau

then asked whether all adjudicating Board members had received and reviewed the materials related to the matter, and all indicated they had.

Dr. Anjum stated that in addition to the number of hours of community service, he believed there was also a concern as to where the community service was to be provided, and he thought the number of community service hours was to be a total of 1000.

Mr. Cousineau stated that based upon a review of the discussion at the February Board Meeting, 500 additional hours was considered agreeable, and with reference to the locale where the hours were to be performed, Dr. Anjum had stated a preference that they be performed at University Medical Center in Las Vegas. However, as explained by Ms. Janssen at the February meeting, there were difficulties with University Medical Center being a facility at which Dr. Venger could perform his community service.

Ms. Janssen stated that nothing had changed since the February Board Meeting. Dr. Venger currently has a summary suspension at UMC, so the likelihood he would be able to get privileges at that facility at any time in the near future is very remote for a variety of reasons, one of which is that he currently has no malpractice insurance. One of the reasons he is able to do the work he has been doing at the federal hospital, which is also a public hospital, is that the hospital has an agreement with the Red Cross whereby the Red Cross is able to provide Dr. Venger with malpractice coverage for the work he does there.

Discussion ensued concerning whether it would be possible for Dr. Venger to provide his community service at University Medical Center and potential alternatives which would allow him to treat indigent patients.

Discussion ensued concerning whether language could be added to the Settlement Agreement to require Dr. Venger to provide his community service hours to indigent patients in Clark County and to add additional facilities at which he could perform the service.

Further discussion ensued concerning the number of hours of community service that would be appropriate and the number of hours that Dr. Venger has already completed.

Mr. Heffner moved that the Board accept the proposed Settlement Agreement with the following amendment: that the words "whom are residents of Clark County" be added to item 2 on page 3 of the Community Service Proposal attached to the Settlement Agreement. Dr. Neyland seconded the motion, and it passed unanimously, with all adjudicating Board Members voting in favor of the motion.

#### Agenda Item 3

#### PUBLIC COMMENT

There was no comment offered from any member of the public.

#### ADJOURNMENT

Dr. Anjum moved to adjourn the meeting. Mr. Heffner seconded the motion, and it passed. The meeting was adjourned at 10:45 a.m.

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